

**VAN ETEN SIPPRELLE LLP**  
KEITH A. SIPPRELLE (SBN 143358)  
2945 Townsgate Road, Suite 200  
Westlake Village, California 91361  
Telephone: (805) 719-4900  
Facsimile: (805) 719-4950  
ksipprelle@vstriallaw.com

Attorneys for Respondent  
BYTON NORTH AMERICA CORPORATION

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

EDAG ENGINEERING GMBH,

Petitioner,

vs.

BYTON NORTH AMERICA  
CORPORATION,

Respondent.

Case No. 3:21-cv-04736-EMC

**RESPONDENT BYTON NORTH  
AMERICA CORPORATION'S  
OPPOSITION TO PETITIONER EDAG  
ENGINEERING GMBH'S  
PROCEDURALLY IMPROPER *EX  
PARTE* APPLICATION FOR THE ENTRY  
OF AN (A) ORDER APPOINTING  
CALIFORNIA SECRETARY OF AGENT  
FOR BYTON NORTH AMERICA UNDER  
CA CORPORATIONS CODE SECTION  
1702(a) and (B) ORDER APPOINTING  
PROCESS SERVERS UNDER FRCP 4.1(a)  
[DOCKET ENTRY 36]**

1 Respondent Byton North America Corporation (“Byton”) hereby respectfully opposes the  
2 procedurally improper *ex parte* application of Petitioner EDAG Engineering GMBH (“EDAG”)  
3 for the entry of an (a) Order appointing California Secretary of Agent for Byton North America  
4 Under CA Corporations Code Section 1702(A) and (B) Order Appointing Process Servers Under  
5 FRCP 4.1(a) [Docket Entry 36].

6 Northern District of California Local Rule 7-10 provides as follows:

7 *7-10. Ex Parte Motions.* Unless otherwise ordered by the assigned Judge, a party may file an  
8 *ex parte* motion, that is, a motion filed without notice to opposing party, *only if a statute,*  
9 *Federal Rule, local rule, or Standing Order authorizes ex parte filing. The motion must*  
10 *include a citation to the statute, rule, or order which permits the use of an ex parte motion to*  
11 *obtain the relief sought.*

12 (Emphasis supplied.)

13 EDAG’s *ex parte* application fails to cite to a statute, Federal Rule, local rule, or Standing  
14 Order authorizing the *ex parte* filing, nor is there any federal statute, rule, or order of which Byton  
15 is aware which would authorize the use of an *ex parte* application/motion to obtain the relief being  
16 sought by EDAG. As such, EDAG’s *ex parte* application should be denied. The relief being  
17 sought by EDAG in its *ex parte* application can be sought by way of a properly noticed motion  
18 which would afford Byton a full and fair opportunity to address the issues raised by EDAG.

19 For the foregoing reasons, EDAG’s *ex parte* application should be denied.

20 Respectfully Submitted,

21  
22 Dated: December 3, 2021

VAN ETEN SIPPRELLE LLP

23  
24 By: Keith A. Sipprelle  
25 Keith A. Sipprelle  
26 Attorneys for Respondent  
27 BYTON NORTH AMERICA CORPORATION  
28